

**Commonwealth of Virginia  
Department of Education  
P. O. Box 2120  
Richmond, Virginia 23218**

***Code of Virginia*  
Sections Relating to Public Charter Schools**

The following sections are from the *Code of Virginia* and relate to the Charter School Excellence and Accountability Act based on 1999 legislation as amended by the 2002 and 2004 Virginia General Assembly.

**§ 22.1-212.5. Objectives; definitions.**

A. (Effective until July 1, 2009) In order to (i) stimulate the development of innovative programs within public education; (ii) provide opportunities for innovative instruction and assessment; (iii) provide parents and students with more options within their school divisions; (iv) provide teachers with a vehicle for establishing schools with alternative innovative instruction and school scheduling, management and structure; (v) encourage the use of performance-based educational programs; (vi) establish and maintain high standards for both teachers and administrators; and (vii) develop models for replication in other public schools, public charter schools may be established in Virginia as provided in this article.

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"At-risk pupil" means a student having a physical, emotional, intellectual, socioeconomic, or cultural risk factor, as defined in Board of Education criteria, which research indicates may negatively influence educational success.

"Public charter school" means a public, nonsectarian, nonreligious, or non-home-based alternative school located within a public school division. A public charter school may be created as a new public school or through the conversion of all or part of an existing public school; however, no public charter school shall be established through the conversion of a private school or a nonpublic home-based educational program. A charter school for at-risk pupils may be established as a residential school.

"Regional public charter school" means a public charter school operated by two or more school boards and chartered directly by the participating school boards.  
(1998, cc. 748, 890; 2000, cc. 631, 712, 1028; 2004, c. 530.)

**§ 22.1-212.6. Establishment and operation of public charter schools; requirements.**

A. A public charter school shall be subject to all federal and state laws and regulations and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for special education services and shall be subject to any court-ordered desegregation plan in effect for the school division or, in the case of a regional public charter school, any court-ordered desegregation plan in effect for relevant school divisions.

Enrollment shall be open to any child who is deemed to reside within the relevant school division or, in the case of a regional public charter school, within any of the relevant school divisions, as set forth in § 22.1-3, through a lottery process on a space-available basis. A waiting list shall be established if adequate space is not available to accommodate all students whose parents have requested to be entered in the lottery process. Such waiting list shall also be prioritized through a lottery process and parents shall be informed of their student's position on the list.

B. A public charter school shall be administered and managed by a management committee, composed of parents of students enrolled in the school, teachers and administrators working in the school, and representatives of any community sponsors, in a manner agreed to by the public charter school applicant and the local school board. Pursuant to a charter contract and as specified in § 22.1-212.7, a public charter school may operate free from specified school division policies and state regulations, and, as public schools, shall be subject to the requirements of the Standards of Quality, including the Standards of Learning and the Standards of Accreditation.

C. (Effective until July 1, 2009) Pursuant to a charter agreement, a public charter school shall be responsible for its own operations, including, but not limited to, such budget preparation, contracts for services, and personnel matters as are specified in the charter agreement. A public charter school may negotiate and contract with a school division, the governing body of institutions of higher education, or any third party for the use or construction of a school building and grounds, the operation and maintenance thereof, and the provision of any service, activity, or undertaking which the public charter school is required to perform in order to carry out the educational program described in its charter. Any services for which a public charter school contracts with a school division shall not exceed the division's costs to provide such services.

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program described in its charter. Any services for which a public charter school contracts with a school division shall not exceed the division's costs to provide such services.

D. In no event shall a public charter school be required to pay rent for space which is deemed available, as negotiated by contract, in school division facilities. All other costs for the operation and maintenance of the facilities used by the public charter school shall be subject to negotiation between the public charter school and the school division or, in the case of a regional public charter school, between the regional public charter school and the relevant school divisions.

E. A public charter school shall not charge tuition.

(1998, cc. 748, 890; 2000, cc. 631,1028; 2002, c. 851; 2004, c. 530.)

**§ 22.1-212.7. Contracts for public charter schools; release from certain policies and regulations.**

An approved charter application shall constitute an agreement, and its terms shall be the terms of a contract between the public charter school and the local school board or, in the case of a regional public charter school, between the regional public charter school and the relevant school boards. The contract between the public charter school and the local school board or relevant school boards shall reflect all agreements regarding the release of the public charter school from school division policies. Such contract between the public charter school and the local school board or relevant school boards shall reflect all requests for release of the public charter school from state regulations, consistent with the requirements of subsection B of § 22.1-212.6. The local school board or relevant school boards, on behalf of the public charter school, shall request such releases from the Board of Education.

If the charter application proposes a program to increase the educational opportunities for at-risk students, including those proposals for residential charter schools for at-risk students, the local school board or relevant school boards, as the case may be, on behalf of the public charter school, shall also request that the Board of Education approve an Individual School Accreditation Plan for the evaluation of the performance of the school as authorized by the Standards of Accreditation pursuant to 8 VAC 20-131-280 C of the Virginia Administrative Code.

Any material revision of the terms of the contract may be made only with the approval of the local school board or relevant school boards and the management committee of the public charter school.

(1998, cc. 748, 890; 2000, cc. 631, 712,1028; 2002, c. 851.)

**§ 22.1-212.8. Charter application.**

A. Any person, group, or organization, including any institution of higher education, may submit an application for the formation of a public charter school.

B. The public charter school application shall be a proposed agreement and shall include:

1. The mission statement of the public charter school that must be consistent with the principles of the Standards of Quality.
2. The goals and educational objectives to be achieved by the public charter school, which educational objectives must meet or exceed the Standards of Learning.
3. (Effective until July 1, 2009) Evidence that an adequate number of parents, teachers, pupils, residents of the school division, or any combination thereof, support the formation of a public charter school.
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4. A statement of the need for a public charter school in a school division or relevant school divisions in the case of a regional public charter school, or in a geographic area within a school division or relevant school divisions, as the case may be.
5. A description of the public charter school's educational program, pupil performance standards, and curriculum, which must meet or exceed any applicable Standards of Quality; any assessments to be used to measure pupil progress towards achievement of the school's pupil performance standards, in addition to the Standards of Learning assessments prescribed by § 22.1-253.13:3; the timeline for achievement of such standards; and the procedures for taking corrective action in the event that pupil performance at the public charter school falls below such standards.
6. A description of the lottery process to be used to determine enrollment. A lottery process shall also be developed for the establishment of a waiting list for such students for whom space is unavailable and, if appropriate, a tailored admission policy that meets the specific mission or focus of the public charter school and is consistent with all federal and state laws and regulations and constitutional provisions prohibiting discrimination that are applicable to public schools and with any court-ordered desegregation plan in effect for the school division or, in the case of a regional public charter school, in effect for any of the relevant school divisions.
7. Evidence that the plan for the public charter school is economically sound for both the public charter school and the school division or relevant school divisions, as the case may be; a proposed budget for the term of the charter; and a description of the manner in which an annual audit of the financial and administrative operations of the public charter school, including any services provided by the school division or relevant school divisions, as the case may be, is to be conducted.
8. A plan for the displacement of pupils, teachers, and other employees who will not attend or be employed in the public charter school, in instances of the conversion of an existing public school to a public charter school, and for the placement of public charter school pupils, teachers, and employees upon termination or revocation of the charter.

9. A description of the management and operation of the public charter school, including the nature and extent of parental, professional educator, and community involvement in the management and operation of the public charter school.

10. An explanation of the relationship that will exist between the proposed public charter school and its employees, including evidence that the terms and conditions of employment have been addressed with affected employees.

11. An agreement between the parties regarding their respective legal liability and applicable insurance coverage.

12. A description of how the public charter school plans to meet the transportation needs of its pupils.

13. Assurances that the public charter school (i) is nonsectarian in its programs, admission policies, employment practices, and all other operations and (ii) does not charge tuition.

14. In the case of a residential charter school for at-risk students, a description of (i) the residential program, facilities, and staffing; (ii) any parental education and after-care initiatives; (iii) the funding sources for the residential and other services provided; and (iv) any counseling or other social services to be provided and their coordination with any current state or local initiatives.

15. (Effective until July 1, 2009) Disclosure of any ownership or financial interest in the public charter school, by the charter applicant and the governing body, administrators, and other personnel of the proposed public charter school, and a requirement that the successful applicant and the governing body, administrators, and other personnel of the public charter school shall have a continuing duty to disclose such interests during the term of any charter.

C. (Effective until July 1, 2009) The charter applicant shall include in the proposed agreement the results of any Board of Education review of the public charter school application that may have been conducted as provided in subsection C of § 22.1-212.9.

(1998, cc. 748, 890; 2000, cc. 631, 712, 1028; 2002, cc. 851, 874; 2004, c. 530.)

#### **§ 22.1-212.9. Review of public charter school applications.**

A. Public charter school applications shall be received and reviewed by local school boards or, in the case of a regional public charter school, by all of the relevant school boards.

Each local school board shall establish procedures for receiving, reviewing, and ruling upon applications and shall make a copy of any such procedures available to all interested parties upon request. If any such board finds the public charter school application is incomplete, the board shall request the necessary information from the charter applicant.

B. To provide appropriate opportunity for input from parents, teachers, and other interested parties and to obtain information to assist local school boards in their decisions to grant a public charter school application, local school boards may establish a procedure for public notice, comment, or hearings on public charter school applications.

C. (Effective until July 1, 2009) The public charter school applicant may submit its proposed charter application to the Board of Education for review and comment. The Board's review shall examine such applications for feasibility, curriculum, financial soundness, and other objective criteria as the Board may establish, consistent with existing state law. The Board's review and comment shall be for the purpose of ensuring that the application conforms with such criteria, but shall not include consideration as to whether the application shall be approved by the local school board.

(1998, cc. 748, 890; 2000, cc. 631, 1028; 2001, cc. 438, 469; 2002, c. 851; 2004, c. 530.)

**§ 22.1-212.10. Decision of local board final.**

The decision of a local school board to grant or deny a public charter school application or to revoke or fail to renew a charter agreement shall be final and not subject to appeal.

(1998, cc. 748, 890; 2000, cc. 631, 1028.)

**§ 22.1-212.11. (Effective until July 1, 2009) Public charter school restrictions.**

A. In establishing public charter schools within the division, local school boards shall give priority to public charter school applications designed to increase the educational opportunities of at-risk students, particularly those at-risk students currently served by schools that have not achieved full accreditation.

B. Local school boards shall report the grant or denial of public charter school applications to the Board; the number of charters granted or denied, and the reasons for any such denials; and whether a public charter school is designed to increase the educational opportunities of at-risk students or any students served by schools that have not achieved full accreditation. The Board of Education shall report annually to the General Assembly the number of public charter school applications granted and denied, and the reasons for any such denials.

C. Nothing in this article shall be construed to prevent a school that is the only school in the division from applying to become a public charter school.

(1998, cc. 748, 890; 2000, cc. 631, 1028; 2002, cc. 851, 874; 2004, c. 530.)

**§ 22.1-212.11. (Effective July 1, 2009) Public charter school restrictions.**

A. Local school boards may establish public charter schools within the school division and shall be authorized to limit the number of schools so established; however, the total number of public charter schools, including those designed to increase educational opportunities for at-risk pupils

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but not including any regional public charter schools, shall not exceed ten percent of the school division's total number of schools or two public charter schools, whichever is greater. Priority shall be given to public charter school applications designed to increase the educational opportunities of at-risk students, and at least one-half of the public charter schools per division shall be for at-risk students.

B. Local school boards may establish public charter schools within the school division and shall be authorized to limit the number of schools so established; however, the total number of public charter schools, including those designed to increase educational opportunities for at-risk pupils but not including any regional public charter schools, shall not exceed ten percent of the school division's total number of schools or two public charter schools, whichever is greater. Priority shall be given to public charter school applications designed to increase the educational opportunities of at-risk students, and at least one-half of the public charter schools per division shall be for at-risk students.

C. Nothing in this article shall be construed to prevent a school that is the only school in the division from applying to become a public charter school.

(1998, cc. 748,890; 2000, cc. 631, 1028; 2002, cc. 851,874.)

**§ 22.1-212.12. Public charter school term; renewals and revocations.**

A. (Effective until July 1, 2009) A charter may be approved or renewed for a period not to exceed five school years. A public charter school renewal application submitted to the local school board or, in the case of a regional public charter school, to the relevant school boards shall contain:

A. (Effective July 1, 2009) A charter may be approved or renewed for a period not to exceed three school years. A public charter school renewal application submitted to the local school board or, in the case of a regional public charter school, to the relevant school boards shall contain:

1. A report on the progress of the public charter school in achieving the goals, objectives, program and performance standards for students, and such other conditions and terms as the school board or boards may require upon granting initial approval of the charter application.

2. A financial statement, on forms prescribed by the Board, that discloses the costs of administration, instruction, and other spending categories for the public charter school and that has been concisely and clearly written to enable the school board or boards and the public to compare such costs to those of other schools or comparable organizations.

B. Local school boards may revoke a charter if the public charter school:

1. Violates the conditions, standards, or procedures established in the public charter school application;

2. Fails to meet or make reasonable progress toward achievement of the content standards or student performance standards identified in the charter application;
3. Fails to meet generally accepted standards of fiscal management; or
4. Violates any provision of law from which the public charter school was not specifically exempted.

A charter may be revoked if the local school board determines, in its discretion, that it is not in the public interest or for the welfare of the students within the school division to continue the operation of the school or, in the case of a regional public charter school, to continue its participation in the operation of the school.

C. Nothing in this section shall be construed to restrict the authority of local school boards to decline to renew a charter agreement.

(1998, cc. 748, 890; 2000, cc. 631, 1028; 2002, c. 851; 2004, c. 530.)

**§ 22.1-212.13. Employment of professional, licensed personnel.**

A. Public charter school personnel shall be employees of the local school board or boards granting the charter.

B. Professional, licensed education personnel may volunteer for assignment to a public charter school. Assignment in a public charter school shall be for one contract year. Upon request of the employee and the recommendation of the management committee of the public charter school, reassignment to the public charter school shall occur on an annual basis.

C. At the completion of each contract year, professional, licensed education personnel who request assignment to a public noncharter school in the relevant school division or who are not recommended for reassignment in the public charter school, other than for the grounds cited in § 22.1-307, shall be guaranteed an involuntary transfer to a public noncharter school in the school division according to the employment policies of the school division.

D. Professional, licensed personnel of a public charter school shall be granted the same employment benefits given to professional, licensed personnel in public noncharter schools in accordance with the policies of the relevant school board or boards.

E. Nothing in this section shall be construed to restrict the authority of the local school board to assign professional, licensed personnel to a public charter school or any other public school as provided in §§ 22.1-293 and 22.1-295.

F. School boards may employ such health, mental health, social services, and other related personnel to serve in residential charter schools for at-risk pupils as set forth in the charter agreement between such school board and the charter school; however, nothing herein shall

require a school board to fund the residential or other services provided by a residential charter school.

(1998, cc. 748, 890; 2000, cc. 631, 712, 1028.)

**§ 22.1-212.14. Funding of public charter schools; services provided.**

A. For the purposes of this article, students enrolled in a public charter school shall be included in the average daily membership of the relevant school division and shall be reported in fall membership for purposes of calculating the state and local shares required to fund the Standards of Quality.

B. Insofar as constitutionally valid, a local school board or, in the case of a regional public charter school, the relevant school boards may establish by contract an agreement stating the conditions for funding the public charter school, including funding for the educational program to be provided by a residential charter school for at-risk students.

C. Services provided the public charter school by the local school board or the relevant school boards, in the case of regional public charter schools, may include food services; custodial and maintenance services; curriculum, media, and library services; warehousing and merchandising; and such other services not prohibited by the provisions of this article or state and federal laws.

D. Funding and service agreements between local school boards and public charter schools shall not provide a financial incentive or constitute a financial disincentive to the establishment of a public charter school, including any regional public charter school.

E. Any educational and related fees collected from students enrolled at a public charter school shall be credited to the account of such public charter school established by the relevant local school board.

F. Notwithstanding any other provision of law, the proportionate share of state and federal resources allocated for students with disabilities and school personnel assigned to special education programs shall be directed to public charter schools enrolling such students. The proportionate share of moneys allocated under other federal or state categorical aid programs shall be directed to public charter schools serving students eligible for such aid.

G. The management committee of a public charter school is authorized to accept gifts, donations, or grants of any kind made to the public charter school and to spend such funds in accordance with the conditions prescribed by the donor. However, no gift, donation, or grant shall be accepted by the management committee of a public charter school if the conditions for such funds are contrary to law or the terms of the agreement between the local school board and the public charter school or, in the case of a regional public charter school, the relevant school boards and the regional public charter school.

H. The Department of Education shall provide technical assistance to local school boards relating to receipt, review, and ruling upon applications for public charter schools.

(1998, cc. 748, 890; 2000, cc. 631, 712, 1028; 2002, c. 851.)

**§ 22.1-212.15. Evaluation of public charter schools; reports.**

School boards shall submit annual evaluations of any public charter schools to the Board of Education. The Board shall review the evaluations against any Board regulations and policies waived for the public charter schools to determine the efficacy of such waivers and whether the public charter schools accomplished established goals and objectives. School boards shall also submit annually to the Board a comparison of the performance of public charter school students and students enrolled in the regular schools of such relevant school division and a report of the number of students enrolled in such public charter schools at the end of the school year.

The Board shall report annually its findings and evaluations of any public charter schools established in the Commonwealth, as well as the number of charters denied, to the Governor and the General Assembly.

(1998, cc. 748, 890; 2000, cc. 631, 1028; 2002, cc. 851, 874.)

**§ 22.1-212.16. Immunity.**

Public charter schools shall be immune from liability to the same extent as all other public schools in the Commonwealth, and the employees and volunteers in a public charter school are immune from liability to the same extent as the employees and volunteers in a public school.  
(2002, c. 874.)